



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 5, 1991

Ms. Mary Ruth Holder
Assistant Attorney General
Environmental Protection Division
P. O. Box 12548
Austin, Texas 78711-2548

OR91-623

Dear Ms. Holder:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 13585.

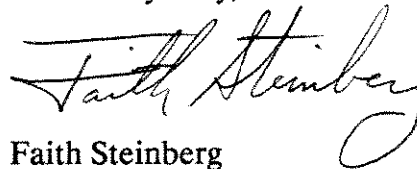
The Texas Department of Agriculture (the department), whom you are currently representing, has received a request for information listed in 27 categories, including, *inter alia*, information related to department employees, job descriptions, administrative procedures, department organization and regulations, and memoranda. Although the department does not object to release of some of the requested information, you claim that the remainder is excepted from required public disclosure under section 3(a)(3) of the Open Records Act.

Previous open records decisions issued by this office resolve your request. Open Records Decision No. 555 (1990) held that the section 3(a)(3) exception is applicable to information related to litigation that is pending or may be reasonably anticipated to which the state or a political subdivision is a party. Section 3(a)(3) forces parties to a lawsuit to obtain relevant information through the normal process of discovery. Open Records Decision No. 551 (1990) at 4. However, transmittal letters, pleadings, motions, proposed orders, etc., may not be withheld under section 3(a)(3) once they have been released to the other party in litigation. Open Records Decision No. 525 (1989) at 4.

You have submitted to us documents which indicate that litigation is pending. Having examined the records submitted to us for review, we conclude that the requested information relates to that litigation. Except for the pleadings already filed, the information may be withheld from required public disclosure by section 3(a)(3) of the Open Records Act, unless it has been previously disclosed through the discovery process or by court order. Please note that this ruling applies only for the duration of the litigation and only for the information at issue here.

Because case law and prior published open records decisions resolve your request, we are resolving this issue with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-623.

Yours very truly,

A handwritten signature in cursive script, reading "Faith Steinberg". The signature is written in dark ink and is positioned above the printed name and title.

Faith Steinberg
Assistant Attorney General
Opinion Committee

FS/GK/lcd

Ref.: ID#s 13585, 13598

cc: Mr. Roger Sanders
Sanders & Mumm, P.C.
111 South Travis Street
Sherman, Texas 75090